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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,214	08/11/2000	Heinz Baier	DE9-1999-0050US1 (590.018)	7894
35195	7590	05/03/2004	EXAMINER	
FERENCE & ASSOCIATES 400 BROAD STREET PITTSBURGH, PA 15143			TRAN, DENISE	
			ART UNIT	PAPER NUMBER
			2186	

DATE MAILED: 05/03/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/637,214

Applicant(s)

BAIER, HEINZ

Examiner

Denise Tran

Art Unit

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

FINAL ACTION

1. The applicant's amendment filed 3/3/04 has been considered. Claims 1-4 are presented for examination.
2. The objection to the abstract of the disclosure is **withdrawn** due to the applicant's amendment filed 3/3/04.
3. The objections to the drawings are **withdrawn** due to the applicant's amendment filed 3/3/04.
4. The objection to claim 2 because of the informality is **withdrawn** due to the applicant's amendment filed 3/3/04.
5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Upton, U.S. Patent No. 6,067,615, in view of Applicant's Admitted Prior Art, fig., 2 and the current specification, pages 1-3, (hereinafter AAPA), and further in view of "Official Notice." The rejection is **maintained** as stated in the previous office Action.
7. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Upton, U.S. Patent No. 6,067,615, in view of Applicant's Admitted Prior Art, fig., 2 and

Art Unit: 2186

the current specification, pages 1-3, (hereinafter AAPA). The rejection is **maintained** as stated in the previous office Action.

8. Applicant's arguments filed 3/3/04 have been fully considered but they are not persuasive.

9. In the remarks, the applicant's argued that Upton does re-program the PROMs with different function sequences.

The examiner disagrees with the applicant's argument because Upton does not disclose reprogramming the PROMs; Upton , col. 4, lines 5-10, only teaches PROMs 210-216 which store function sequences. According to the AAPA, page 3, lines 1-5, PROM can not be rewritten (i.e., reprogram); and EEPROM can be used instead of PROM so that the memory can be rewritten in case of a further update. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of AAPA into the system of Upton because it would allow data to be updated without having to replace a memory physically.

10. Applicant has failed to seasonably challenge the examiner's Official Notices in the previous office action, those limitations are now considered as prior art. MPEP. 2144.03.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise Tran whose telephone number is (703) 305-9823. The examiner can normally be reached on Monday, Thursday, and an alternate Wednesday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on (703) 305-3821. The fax phone numbers for

Art Unit: 2186

the organization where this application or proceeding is assigned are (703)-872-9306 for central Official fax.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



D.T.
April 26, 2004